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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY-DOCKET NO.	CONFIRMATION NO.
10/085,821	02/27/2002	Corinna E. Lathan	1134-202	2394

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EXAMINER

MARC, MCDIEUNEL

ART UNIT PAPER NUMBER

3661

DATE MAILED: 03/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,821

Applicant(s)

LATHAN ET AL.

Examiner

McDieunel Marc

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-54 are pending in the application.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on January 29, 2004 has been entered.
3. The indicated allowability of claims 1-53 is withdrawn in view of the newly discovered reference(s) to cited prior art Lathan *et al.* (U.S. Pat. No. 6,511, 442) in view of Sheaffer *et al.* (U.S. Pat. No. 6,084,205). Rejections based on the newly cited reference(s) follow.
4. The information disclosure statement (IDS), and U.S. PTO-Form 1449 stated on the amendment filed on January 26, 2004 has not been received. Accordingly, the information disclosure statement mentioned on page 2 of the latest amendment "U.S. Pat. No. 6,511,442" is being considered and applied on the application by the examiner in a PTO-Form 892.

5. Claims 1-15 and 43-52 are objected to because of the following informalities:

The phrase "adapted to" suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. Therefore, the clause "adapted to" should not be used as claim language. See claims 1, lines 2 and 6, claim 43, line 6 and claim 44, line 2, appropriate correction is required.

Dependent claims not specifically objected are objected as being dependent upon an objected base claim.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over cited prior art Lathan *et al.* (U.S. Pat. No. 6,511, 442) in view of Sheaffer *et al.* (U.S. Pat. No. 6,084,205).

As per claims 1-54, on page 2 of the information disclosure statement filed on January 26, 2004. It is evident that the 442' patent relates to an evaluation and training systems using EMG sensors. As shown in the patent, the system includes feedback means to manipulate the environment outside of the immediate surroundings of the user (see cols. 3-8). Although, Lathan *et al.* teaches feedback, however, the 442' patent does not provide a dynamic feedback control system, as claimed by as claimed by applicants.

However, Sheaffer *et al.* teaches a welding processes using robotic welders with the use of dynamic feedback, to control welding process parameters (see col. 3, lines 45-46).

Hence, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Lathan's *et al.* robotic system with that of Sheaffer *et al.*, because this modification would have enhanced Lathan's *et al.* in order to control the welding current supplied by welder 150 to torch 155 by means of dynamic feedback control algorithm, thereby improving the efficiency and the reliability of the robotic apparatus and wireless communication system as a whole.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to McDieunel Marc whose telephone number is (703) 305-4478. The examiner can normally be reached on 6:30-5:00 Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski, Jr. can be reached on (703) 308-3873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


McDieunel Marc

Tuesday, March 02, 2004

MM/


supervisor, William A. Cuchlinski, Jr.

WILLIAM A. CUCHLINSKI, JR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600